

Thomas D. Goldberg (TG 7251)  
DAY PITNEY LLP  
Seven Times Square  
New York, NY 10036-7311  
Tel: (212) 297-5800

and

One Canterbury Green  
Stamford, CT 06905  
Tel.: (203) 977-7300

Attorneys for Carrier Corporation

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

		X
		:
In re:	:	Chapter 11
		:
DELPHI CORPORATION, <i>et al.</i> ,	:	Case No. 05-44481
	:	(Jointly Administered)
Debtors.	:	
		:
		:

**LIMITED OBJECTION AND RESERVATION OF RIGHTS OF CARRIER  
CORPORATION WITH RESPECT TO CORRECTED NOTICE OF ASSUMPTION  
AND ASSIGNMENT WITH RESPECT TO CERTAIN EXECUTORY CONTRACTS OR  
UNEXPIRED LEASES TO BE ASSUMED AND ASSIGNED TO PARNASSUS  
HOLDINGS II, LLC UNDER MODIFIED PLAN OF REORGANIZATION**

Carrier Corporation (together with its affiliates, "Carrier"), by its undersigned counsel,  
respectfully submits this limited objection and reservation of rights with respect to the Corrected  
Notice Of Assumption And Assignment With Respect To Certain Executory Contracts Or  
Unexpired Leases To Be Assumed And Assigned To Parnassus Holdings II, LLC Under  
Modified Plan Of Reorganization dated July 13, 2009 (Doc. No. 18169), pursuant to which the  
debtors propose to assume and assign "all contracts between CARRIER CORPORATION and

Delphi related to intellectual property.” In support of this limited objection, Carrier represents as follows:

1. Carrier is party to the following agreements with Delphi Automotive Systems LLC, through its Delphi Thermal Systems Division (“Delphi”):

- (a) a Joint Development and License Agreement effective as of February 2, 2005 (the “JDLA”);
- (b) a Master Purchase Agreement effective as of March 31, 2005 (the “MPA”);
- (c) an Amendment and Settlement Agreement effective as of November 27, 2007, (the “A&SA”), pursuant to which the JDLA and MPA were amended and modified;
- (d) Regional Purchase Agreements effective as of June 1, 2005 and as of December 19, 2008;
- (e) Various letter agreements (including agreements dated July 7, 2008 and May 12, 2009) which modify Article 1.2 of the MPA and the corresponding Article 1.2 of Exhibit II to the A&SA; and
- (f) the Delphi-Carrier Chiller Settlement Agreement effective as of March 31, 2009.

The above agreements, together with all related agreements, are referred to collectively as the “Carrier-Delphi IP Agreements.”

2. On July 13, 2009, Delphi filed a corrected notice of assumption and assignment with respect to the Carrier-Delphi IP Agreements, which purports to support the assumption and assignment of the Carrier-Delphi IP Agreements to Parnassus Holdings II, LLC.

3. Carrier objects to the proposed assumption and assignment unless certain post-petition defaults are cured, as required by Bankruptcy Code § 365(b)(1) and (f)(2). Carrier is reviewing the status of the Carrier-Delphi IP Agreements, but believes that at least the following defaults may exist and must be cured as a condition to assumption:

- (a) Pursuant to Section 3.3A of the MPA (as amended by the A&SA), Delphi is obligated to provide to Carrier one-time price reductions totaling \$800,000 during the years 2008, 2009 and 2010. No such price reductions have yet been applied. Carrier has been in discussions with Delphi regarding resolution of this issue, but no agreement has been finalized.
- (b) Delphi is obligated to Carrier on account of warranty claims that have accrued on account of the sale of products subject to the Carrier-Delphi IP Agreements. Carrier estimates that the total warranty obligations of the parties are over \$1.3 million, a substantial portion of which constitute obligations of Delphi for which Carrier is entitled to reimbursement. Carrier has been in discussions with Delphi regarding resolution of this issue, but no agreement has been finalized.
- (c) On information and belief, Delphi may be in breach of its Exclusivity Obligation under Section 1.2 of the MPA (as amended by the A&SA). Carrier has attempted to gather information relating to such breach, but such information has not yet been provided by Delphi.

4. Carrier further objects to the proposed assumption and assignment unless Delphi and the proposed assignee can demonstrate that the proposed assignee will be able to perform under the Carrier-Delphi IP Agreements, as required by Bankruptcy Code § 365(f)(2).

5. Carrier further objects to any assumption and assignment that does not encompass all of the Carrier-Delphi IP Agreements, which are integrated agreements.

6. Carrier's review is ongoing and it reserves all rights to identify additional cure obligations and to assert additional grounds to object to any proposed assumption or assignment on the grounds that Delphi has failed to meet the prerequisites of Section 365(b) and (f) of the Bankruptcy Code.

Dated: July 22, 2009  
Stamford, Connecticut

Respectfully submitted,

By: /s/Thomas D. Goldberg  
Thomas D. Goldberg (TG 7251)  
DAY PITNEY LLP  
Seven Times Square  
New York, NY 10036-7311  
Telephone: (212) 297-5800

and

One Canterbury Green  
Stamford, CT 06901-2047  
Telephone: (203) 977-7300  
Facsimile: (203) 977-7301  
[tdgoldberg@daypitney.com](mailto:tdgoldberg@daypitney.com)  
[tjoneill@daypitney.com](mailto:tjoneill@daypitney.com)

Attorneys for Carrier Corporation

**CERTIFICATION**

I Hereby Certify That On July 22, 2009, A Copy Of The Limited Objection And Reservation Of Rights Of Carrier Corporation With Respect To Corrected Notice Of Assumption And Assignment With Respect To Certain Executory Contracts Or Unexpired Leases To Be Assumed And Assigned To Parnassus Holdings II, LLC Under Modified Plan Of Reorganization was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the notice of electronic filing. parties may access this filing through the court's cm/ecf system.

A copy is being forwarded by overnight courier to:

The Chambers of the Hon. Robert D. Drain  
United States Bankruptcy Judge  
One Bowling Green, Room 632  
New York, NY 10004

Delphi Corporation  
Attn: General Counsel  
5725 Delphi Drive  
Troy, MI 48098

Skadden, Arps, Slate, Meagher & Flom LLP  
Attn: John Wm. Butler, Jr.  
Attn: Ron E. Meisler  
333 W. Wacker Drive, Suite 2100  
Chicago, IL 60606

Skadden, Arps, Slate, Meagher & Flom LLP  
Attn: Kayalyn A. Marafioti  
Attn: Gregory W. Fox  
Four Times Square  
New York, NY 10036

Office of the U.S. Trustee  
Attn: Brian Masumoto  
33 Whitehall Street, Suite 2100  
New York, NY 10004

Davis Polk & Wardwell  
Attn: Donald S. Bernstein  
Attn: Brian M. Resnick  
450 Lexington Avenue  
New York, NY 10022

Wilkie Farr & Gallagher LLP  
Attn: Richard Mancino  
Attn: Marc Abrams  
787 Seventh Avenue  
New York, NY 10019

Cadwalader, Wickersham & Taft LLP  
Attn: John J. Rapisardi  
Attn: Oran B. Haker  
One World Financial Center  
New York, NY 10281

United States Department of Justice  
Attn: Matthew L. Schwartz  
Attn: Joseph N. Cordaro  
86 Chambers Street, 3rd Floor  
New York, NY 10007

Weil, Gotshal & Manges LLP  
Attn: Jeffrey L. Tanenbaum

Latham & Watkins LLP  
Attn: Robert J. Rosenberg  
Attn: Mitchell A. Seider  
Attn: Mark A. Broude  
885 Third Avenue  
New York, NY 10022

Attn: Robert J. Lemons  
767 Fifth Avenue  
New York, NY 10153

Schulte Roth & Zabel LLP  
Attn: Adam C. Harris  
Attn: David J. Karp  
919 Third Avenue  
New York, NY 10022

/s/ Thomas D. Goldberg  
Thomas D. Goldberg